

**ASSEMBLY BILL**

**No. 225**

**Introduced by Assembly Member Negrete McLeod**

February 3, 2005

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An act to amend Section 650 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 225, as introduced, Negrete McLeod. Electronic prescription information.

Existing law relative to insurance fraud makes it a crime for healing arts practitioners to receive money or other consideration for, or to engage in various related activities with respect to, the referral of patients, clients, or customers to any person, with certain exceptions.

This bill would exempt from these provisions a licensed health care facility or licensed health care professional prescribing or dispensing medication that receives nonmonetary remuneration necessary and used solely to receive and transmit electronic prescription information.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 650 of the Business and Professions
- 2 Code is amended to read:
- 3 650. Except as provided in Chapter 2.3 (commencing with
- 4 Section 1400) of Division 2 of the Health and Safety Code, the
- 5 offer, delivery, receipt, or acceptance by any person licensed
- 6 under this division or the Chiropractic Initiative Act of any
- 7 rebate, refund, commission, preference, patronage dividend,

1 discount, or other consideration, whether in the form of money or  
2 otherwise, as compensation or inducement for referring patients,  
3 clients, or customers to any person, irrespective of any  
4 membership, proprietary interest or coownership in or with any  
5 person to whom these patients, clients, or customers are referred  
6 is unlawful.

7 The payment or receipt of consideration for services other than  
8 the referral of patients which is based on a percentage of gross  
9 revenue or similar type of contractual arrangement shall not be  
10 unlawful if the consideration is commensurate with the value of  
11 the services furnished or with the fair rental value of any  
12 premises or equipment leased or provided by the recipient to the  
13 payer.

14 Except as provided in Chapter 2.3 (commencing with Section  
15 1400) of Division 2 of the Health and Safety Code and in  
16 Sections 654.1 and 654.2, it shall not be unlawful for any person  
17 licensed under this division to refer a person to any laboratory,  
18 pharmacy, clinic (including entities exempt from licensure  
19 pursuant to Section 1206 of the Health and Safety Code), or  
20 health care facility solely because the licensee has a proprietary  
21 interest or coownership in the laboratory, pharmacy, clinic, or  
22 health care facility; provided, however, that the licensee's return  
23 on investment for that proprietary interest or coownership shall  
24 be based upon the amount of the capital investment or  
25 proportional ownership of the licensee which ownership interest  
26 is not based on the number or value of any patients referred. Any  
27 referral excepted under this section shall be unlawful if the  
28 prosecutor proves that there was no valid medical need for the  
29 referral.

30 *Except as provided in Chapter 2.3 (commencing with Section*  
31 *1400) of Division 2 of the Health and Safety Code and in*  
32 *Sections 654.1 and 654.2, it shall not be unlawful for a licensed*  
33 *health care facility, or a licensed health care professional*  
34 *prescribing or dispensing medication, to receive nonmonetary*  
35 *remuneration necessary and used solely to receive and transmit*  
36 *electronic prescription information, as provided in Section 11164*  
37 *of the Health and Safety Code. Nonmonetary remuneration*  
38 *includes hardware, software, information technology, and*  
39 *training services for purposes of facilitating the electronic*  
40 *transmission of prescription information.*

1 “Health care facility” means a general acute care hospital,  
2 acute psychiatric hospital, skilled nursing facility, intermediate  
3 care facility, and any other health facility licensed by the State  
4 Department of Health Services under Chapter 2 (commencing  
5 with Section 1250) of Division 2 of the Health and Safety Code.

6 A violation of this section is a public offense and is punishable  
7 upon a first conviction by imprisonment in the county jail for not  
8 more than one year, or by imprisonment in the state prison, or by  
9 a fine not exceeding fifty thousand dollars (\$50,000), or by both  
10 that imprisonment and fine. A second or subsequent conviction is  
11 punishable by imprisonment in the state prison or by  
12 imprisonment in the state prison and a fine of fifty thousand  
13 dollars (\$50,000).

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